

IN THE MATTER OF: T.S., S.M., and T.M.

NO. COA04-61

Filed: 4 January 2005

Child Abuse and Neglect—permanency planning orders—underlying adjudicatory orders remanded

Permanency planning orders were vacated where the underlying orders adjudicating neglect and dependence were remanded for entry of adequate findings and conclusions.

Appeal by respondent from orders entered 28 July 2003 by Judge P. Gwynett Hilburn in Pitt County District Court. Heard in the Court of Appeals 12 October 2004.

Pitt County Legal Department, by Jo Anne Burdorff and Janis Gallagher, for petitioner-appellee Pitt County Department of Social Services.

Wanda Naylor, Guardian ad Litem.

Gaylord, McNally, Strickland & Holscher, by Emma Holscher, for respondent-appellee Octavious Matthews.

Graham, Silver, Nuckolls & Brown, by David Silver, for respondent-appellee Tyrone Moore.

Terry F. Rose for respondent-appellant Erica Moore.

HUNTER, Judge.

E.M., the biological mother of T.S., S.M., and T.M., presents the following pertinent issue for our consideration: Whether the trial court has subject matter jurisdiction to conduct a permanency planning review while the appeal of adjudication and disposition orders finding the children neglected and dependent are pending before this Court. N.C. Gen. Stat. § 7B-907(a) (2003) provides in pertinent part:

In any case where custody is removed from a parent, . . . the judge shall conduct a review hearing designated as a permanency planning hearing within 12 months after the date of the initial order removing custody

Id. In this case, the orders adjudicating T.S. and S.M. neglected, and T.M. neglected and dependent, have been remanded for the entry of adequate findings of fact and conclusions of law. As this Court has determined the underlying adjudication orders did not properly determine the minor children to be neglected or dependent, the permanency planning order must be vacated. *See In re T.S.*, 163 N.C. App. 783, 595 S.E.2d 239 (2004) (unpublished) and *In re T.M.*, ___ N.C. App. ___, ___ S.E.2d ___ (No. COA04-17 filed 4 January 2005).

Vacated.

Judges WYNN and THORNBURG concur.

Judge Thornburg concurred in this opinion prior to 31 December 2004.